

Merit Systems Protection Board

§ 1201.24

rule on any interlocutory appeals or motions to disqualify the administrative law judge assigned to those cases until the initial decision has been issued.

APPEAL OF AGENCY ACTION; PLEADINGS

§ 1201.21 Notice of appeal rights.

When an agency issues a decision notice to an employee on a matter that is appealable to the Board, the agency must provide the employee with the following:

- (a) Notice of the time limits for appealing to the Board, the requirements of § 1201.22(c), and the address of the appropriate Board office for filing the appeal;
- (b) A copy, or access to a copy, of the Board's regulations;
- (c) A copy of the appeal form in appendix I of this part; and
- (d) Notice of any right the employee has to file a grievance.

§ 1201.22 Filing an appeal and responses to appeals.

(a) *Place of filing.* Appeals, and responses to those appeals, must be filed with the appropriate Board regional or field office. See § 1201.4(d) of this part.

(b) *Time of filing.* An appeal must be filed during the period beginning on the day after the effective date of the action being appealed and ending 30 days after the effective date. An appeal from a final or reconsideration decision that does not set an effective date must be filed within 35 days of the date of the issuance of the decision. (Paragraphs (a) (5), (6), (7), (12), (13), (14), (15), (16), (17), and (18) of § 1201.3 of this part list actions covered by the latter rule.) A response to an appeal must be filed within 20 days of the date of the Board's acknowledgment order.

(c) *Timeliness of appeals.* If a party does not submit an appeal within the time set by statute, regulation, or order of a judge, it will be dismissed as untimely filed unless a good reason for the delay is shown. The judge will provide the party an opportunity to show why the appeal should not be dismissed as untimely.

(d) *Method of filing.* Filing must be made with the appropriate Board office by personal delivery, by facsimile, by

mail, or by commercial overnight delivery.

[54 FR 53504, Dec. 29, 1989, as amended at 58 FR 36345, July 7, 1993; 59 FR 31109, June 17, 1994; 59 FR 65235, Dec. 19, 1994]

§ 1201.23 Computation of time.

In computing the number of days allowed for filing a submission, the first day counted is the day after the event from which the time period begins to run. If the date that ordinarily would be the last day for filing falls on a Saturday, Sunday, or Federal holiday, the filing period will include the first workday after that date.

Example: If an employee receives a decision notice that is effective on July 1, the 30-day period for filing an appeal starts to run on July 2. The filing ordinarily would be timely only if it is made by July 31. If July 31 is a Saturday, however, the last day for filing would be Monday, August 2.

[54 FR 53504, Dec. 29, 1989, as amended at 59 FR 31109, June 17, 1994]

§ 1201.24 Content of an appeal; right to hearing.

(a) *Content.* Only an appellant, his or her designated representative, or a party properly substituted under § 1201.35 may file an appeal. Appeals may be in any format, including letter form, but they must contain the following:

(1) The name, address, and telephone number of the appellant, and the name and address of the agency that took the action;

(2) A description of the action the agency took and its effective date;

(3) A request for hearing if the appellant wants one;

(4) A statement of the reasons why the appellant believes the agency action is wrong;

(5) A statement of the action the appellant would like the judge to order;

(6) The name, address, and telephone number of the appellant's representative, if the appellant has a representative;

(7) The notice of the decision to take the action being appealed, along with any relevant documents;

(8) A statement telling whether the appellant or anyone acting on his or her behalf has filed a grievance or a